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Congress Should Fund the War With “Emergency” Spending

Introduction

This week, the Senate is considering an emergency supplemental spending bill in response to the Administration’s request for \$81.9 billion for FY05 in “emergency” supplemental spending for operations in Iraq and Afghanistan, the war on terror, and tsunami relief. This will be the twelfth supplemental enacted during the Bush Administration, which, to date, has resulted in nearly \$284 billion in supplemental spending.¹ (This figure will grow to roughly \$366 billion after the pending bill is enacted.) One could put this figure in perspective by examining Congress’s annual spending: since 2001, annual discretionary spending for the entire federal government has averaged \$742 billion a year.² Thus, during the past four years, supplemental spending (the majority of which is “emergency” spending) has amounted to nearly half of the federal government’s average annual discretionary budget. Emergency designations are an important consideration because the budget rules allow spending that is deemed “emergency” not to count against the overall discretionary spending cap.

This paper makes three points that together seek to ensure that Congress responsibly spends taxpayer funds, starting with the pending supplemental bill:

1. Congress should fund operations in Iraq and Afghanistan through emergency supplemental appropriations (because funding it through the regular appropriations process would unnecessarily inflate the defense base).
2. Congress should also acknowledge near-term war costs through a defense reserve fund, as provided in recent budget resolutions.
3. Congress was correct to scrutinize the Administration’s request, since it arguably included items that do not meet the definition of “emergency” spending.

¹ Joseph J. Schatz, *Supplementals Under Bush*, CQ Weekly, January 31, 2005.

² Senate Budget Committee. Also, it is important to acknowledge that extraordinary events such as 9/11 and the war on terror during the last four years have all contributed to the historically high spending levels.

Supplemental Spending Enacted in the 107th and 108th Congresses

(Spending in billions)

7/24/01	Defense, various domestic (PL 107-20)	\$6.5
9/18/01	War on terrorism, homeland security (PL 107-38, PL 107-117)	40.0
8/2/02	War on terrorism, homeland security (PL 107-206)	28.9
4/16/03	Iraq, Afghanistan (PL 108-11)	78.5
8/8/03	Domestic disasters (PL 108-69)	1.0
9/30/03	Domestic disasters (attached to PL 108-83)	0.9
11/6/03	Iraq, Afghanistan (PL 108-106)	87.5
8/5/04	Iraq, Afghanistan (attached to PL 108-287)	25.0
9/8/04	Hurricane relief (PL 108-303)	2.0
10/13/04	Hurricane, drought relief (attached to PL 108-324)	14.5

Source: CQ Weekly, 1/31/05

The War Should Be Funded through Emergency Supplementals

Much debate has occurred concerning how Congress should pay for the war on terror—specifically the operations in Iraq and Afghanistan. The ranking members of both the House and Senate Budget Committees have criticized the President for not including the cost of operations in Iraq and Afghanistan in his budget.³

However, there is good reason not to include such costs in the annual budget. Generally, costs included in the annual budget get built into the budget baseline. Moving temporary costs into the baseline is problematic because these costs are assumed to continue indefinitely—a scenario that does not make much sense for a temporary (and large) cost, such as funding a war.

The Congressional Budget Office (CBO) describes the use of the budget baseline as follows:

The baseline is intended to provide a neutral, nonjudgmental foundation for assessing policy options. It is not ‘realistic,’ because tax and spending policies will change over time. Neither is it intended to be a forecast of future budgetary outcomes. Rather, the projections ... reflect CBO’s best judgment about how the

³Democratic Staff for Senate Budget Committee, *Brief Analysis: President Bush’s FY 2006 Budget*, February 8, 2006 (available at <http://budget.senate.gov/democratic/press/2005/bushfy06budgetbriefanalysis0208051.pdf>). (“The budget does not include any funding to pay for the wars in Iraq and Afghanistan beyond 2005. Though exact war costs cannot be known, they clearly will be more than the zero shown in the President’s budget. In addition to the \$81 billion supplemental expected in 2005, CBO projects that ongoing military operations will cost \$383 billion over the 2006-2015 period.”)

economy and other factors will affect federal revenues and spending under existing policies.⁴

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177), lays out the rules for calculating the baseline.⁵ It provides that discretionary spending should be projected by assuming that the most recent year's discretionary budget authority is provided in each future year, with adjustments to reflect projected inflation. CBO's current baseline omits spending for U.S. military operations in Iraq and Afghanistan and for other efforts in the war on terror.⁶

There are two obvious reasons why not to build the cost of operations in Iraq and Afghanistan into the baseline: First, the war is not intended to go on indefinitely, and when it does conclude, the cost to fund it should end;⁷ and second, the costs beyond the next year are far too difficult to predict with any accuracy.

Outside the baseline parameters, CBO estimated future costs for operations in Iraq and Afghanistan between FY06 and FY15 to be in excess of \$448 billion above current costs in the baseline for such operations. **This assumption contains the following caveat:**

This is the budgetary impact of one possible scenario for future military operations in Iraq and Afghanistan and the global war on terrorism. This scenario is one of many possible scenarios regarding future spending for these activities and should not be regarded as an estimate of actual war costs or a prediction of how much budget authority the Department of Defense (DoD) will need or request for these activities in the future.⁸

On March 1, during a Senate Budget Committee hearing on the FY06 Department of Defense budget, Chairman Judd Gregg articulated his opinion of why such costs should be funded through the supplemental appropriations process:

These are not expenditures that will go on forever; in fact, we hope these expenditures will be shortened in their time horizon and, hopefully, no more than two or three years. Therefore, I do not believe these dollars that we're expending in Iraq and Afghanistan should be built into the defense base, and I think it would

⁴ Marc Labonte, *Baseline Budget Projections: A Discussion of Issues*, Congressional Research Service (CRS), March 1, 2005 (quoting Congressional Budget Office, *The Budget and Economic Outlook*, p. 7, January 2001).

⁵ Bill Heniff Jr., *Baselines and Scorekeeping in the Federal Budget Process*, Congressional Research Service, September 5, 2003.

⁶ This omission is because Congress has not enacted a FY05 Supplemental to date.

⁷ On April 11, 2005, the New York Times included an article that stated senior American officers see some positive developments in Iraq, which could allow the Pentagon to plan for "significant troop reductions by early next year." Eric Shmitt, *U.S. Commanders See Possible Cut in Troops in Iraq*, The New York Times, April 11, 2005.

⁸ Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2006 to 2015*, January 2005.

be a major budget error to do that, because it would inappropriately inflate the defense base.⁹

In response, Deputy Defense Secretary Paul Wolfowitz stated: “I agree emphatically with what you’ve just said about why these emergency expenditures that are not predictable shouldn’t be built into the base budget When you have unpredictable emergency expenditures, it is wise to do it through a supplemental.”¹⁰

Defense Reserve Fund Should Be Included in FY06 Budget

The defense reserve fund contained in the budget resolution allows Congress to properly budget for the short-term costs of the war—without building such costs into the defense base. Since 1983, budget resolutions often have included “reserve funds.” A reserve fund permits the Chairman of the Budget Committee to increase the 302(a) (discretionary spending) level once certain conditions have been met.¹¹ Although the Budget Chairman has sole discretion to revise the 302(a) level, taking such action arguably requires a consensus in each chamber because two conditions must first be satisfied: Congress must pass a budget resolution, and a committee must report out relevant legislation.

The Chairmen of both the House and Senate Budget Committees have included a defense reserve fund in each chamber’s version of the FY 2006 budget. Specifically, S. Con. Res. 18, the Senate’s concurrent budget resolution, assumed a \$50 billion reserve in supplemental appropriations for the costs associated with ongoing military operations in Iraq and Afghanistan.

During the Budget Committee hearing on the FY06 Defense budget, Deputy Defense Secretary Paul Wolfowitz stated: “Making some kind of provision in overall budgeting for the fact that there is going to be a requirement for fiscal resources over and above what we requested for this year makes sense.”¹²

Although the appropriate size of this reserve fund is difficult to predict in the war context, it provides a signal that funding will occur and Congress must budget for such spending.

Emergency Designated Spending Should Meet the Definition of “Emergency”

The “emergency” designation for a spending item is critical for budget-process purposes because that designation exempts the spending from the discretionary spending cap in the annual

⁹ Senator Gregg, Testimony during Budget Hearing on FY06 Defense Budget, March 1, 2005 (available at <http://www.cq.com/display.do?dockey=/cqonline/prod/data/docs/html/transcripts/congressional/109/congressionaltranscripts109-000001551370.html@committees&metapub=CQ-CONGTRANSCRIPTS&prod=4>).

¹⁰ Deputy Defense Secretary Paul Wolfowitz, in testimony before the Senate Budget Committee, March 1, 2005 (available at <http://www.cq.com/display.do?dockey=/cqonline/prod/data/docs/html/transcripts/congressional/109/congressionaltranscripts109-00001551370.html@committees&metapub=CQ-CONGTRANSCRIPTS&prod=4>).

¹¹ Congressional Research Service, “Reserve Funds in the FY 2002 Budget Resolution,” October 10, 2001.

¹² Paul Wolfowitz, March 1, 2005.

budget resolution.¹³ Since emergency spending is not counted against the discretionary cap, the designation provides a means of avoiding that cap. Thus, it is important that Congress ensure that emergency requests (especially non-defense emergencies) truly meet the definition of “emergency.”

S. Con. Res. 95, the FY05 Budget Resolution, provides the Congressional parameters for “emergency” spending legislation.¹⁴ Section 402 provides that “emergency” spending must be: necessary; sudden; urgent; unforeseen; and not permanent.¹⁵

Past supplementals have included items that likely did not meet the “emergency” spending definition. Examples of recent emergency requests that likely did not meet the emergency definition include: \$59 million for anti-narcotics programs in Colombia and Pakistan (in FY03); \$158 million for Health and Human Services Department Programs, including disease control (in FY03); and 120 million for international narcotics enforcement (in FY04).

The Administration’s current \$81.9-billion emergency request includes some items that arguably do not meet the “emergency” definition, including: \$5 billion to reorganize the Army; \$773 million for drug interdiction and eradication efforts in Afghanistan; \$658 million for construction of a new embassy in Baghdad; \$200 million for a “Global War on Terror Partners Fund”; and \$200 million in aid to the Palestinians.

It is appropriate for Congress to scrutinize the Administration’s request, and in this case, the Senate Appropriations Committee and House did just that. Prior to floor consideration, the House Appropriations Committee examined the emergency designations, and in its committee report (H. Rept. 109-16) noted: “Using the criteria outlined in Section 402 [of S. Con. Res. 95] as well as an analysis of truly critical needs, the Committee excluded or offset about \$3.3 billion in items requested by the President that were not urgent or essential. The remaining funds are for requirements that are justified as emergency in nature.”¹⁶

The House passed the spending bill on March 16, 2005, providing, overall, some \$676 million less than the President requested.¹⁷ The House-passed bill included \$2.3 billion less than was requested for foreign aid and State Department operations. The items not funded included: \$600 million for Afghanistan reconstruction activities, including \$25 million each for

¹³ Discretionary spending is capped by the budget 302(a) level, which is the top-line number for discretionary spending that is set in the annual budget resolution. Section 301(a) (2) of the Congressional Budget Act of 1974 (CBA) required each budget resolution to include a separate spending allocation “for contingencies” out of the total amount. P.L. 93-344. Between 1974 and 1985, no budget included such an allocation and the provision was removed from the CBA by the Balanced Budget and Emergency Deficit Control Act of 1985 (BBA). James V. Saturno and William Heniff, *Federal Budget Process Reform: Analysis of Five Reform Issues*, Congressional Research Service, July 2002 (citing P.L. 99-177, Title II, the Balanced Budget and Emergency Deficit Control Act of 1985).

¹⁴ Although the conference report on S. Con. Res. 95 was never passed by the Senate, it is printed in House Report 108-498, filed in the House of Representatives on May 19, 2004. More importantly, Section 402 was made applicable to the House of Representatives by House Resolution 649 (108th Congress) and made applicable to the Senate by Section 14007 of Public Law 108-287 (118 Stat. 1014).

¹⁵ S. Con. Res. 95 (108th Congress).

¹⁶ H.R. 1268, the Emergency Supplemental Appropriations Act, 2005, H.Rept. 109-16.

¹⁷ S. Rept. 109-52.

construction of an airport in Kabul and for establishing a law school; and \$400 million to support coalition allies. Additionally, an amendment offered on the House floor by Representative Fred Upton (R-MI) effectively bars the use of \$592 million for construction of a new U.S. embassy compound in Baghdad, but it did not eliminate the funds from the bill.

The Senate Appropriations Committee also scrutinized the bill. The bill reported to the full Senate (H.R. 1268, the War Supplemental Appropriations Act, FY 2005) provides \$80.6 billion, which is nearly \$1.5 billion less than the President requested. Of this, it provided \$4.3 billion (\$1.3 billion less than requested) for foreign aid and State Department operations, because like the House, it likely concluded that some of the requests did not meet the emergency definition. For example, the Senate Appropriations Committee cut funding for economic aid to allies in the war on terror through the Global War on Terror Partners Fund and it reduced multilateral peacekeeping funding. Clearly, some scrutiny was necessary.

Conclusion

Past emergency spending practices and the current budget picture demand that Congress act responsibly in this year's appropriations process. This can be accomplished in three ways. First, operations in Iraq and Afghanistan should be funded through emergency supplemental spending so that the defense base is not artificially inflated. Second, Congress should acknowledge near-term war costs through a defense reserve fund. Finally, Congress should ensure that "emergency" items included in this and any future spending bills are true emergencies. The debate on the Administration's supplemental requests concerning operations in Iraq and Afghanistan and tsunami aid provide the perfect setting for further discussion of these issues.